

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The proposed amendments provide the Department's annual updates of the statewide average cost of nursing facility services to a private-pay resident and the statewide average charges or maximum Medicaid rate for various levels of institutional care.

The statewide average cost of nursing facility services to a private-pay resident is determined by a survey of nursing facilities, including freestanding facilities, hospital-based skilled nursing facilities, and facilities serving special populations. This monthly average cost has increased from \$4,342.03 to \$4,598.61 (equivalent to \$151.27 per day). This amount is used to determine the period of ineligibility for Medicaid payment of nursing facility care and other long-term care services that is required when a person has transferred assets for less than market value to obtain Medicaid eligibility. The amount transferred is divided by this monthly average cost to determine the number of months of ineligibility. Since the cost has gone up, the resulting periods of ineligibility will be slightly shorter.

Iowa Code chapter 633C requires the Department to determine annually and publish the statewide average charges or maximum Medicaid rate for various levels of institutional care. These amounts are used to regulate the disposition of funds in a medical assistance income (Miller-type) trust. A medical assistance income trust allows a person whose income is above the Medicaid income limit for long-term care (currently \$2,022 per month) but is less than the cost of care in a medical institution to attain eligibility by depositing the income in a trust. An increase in the average charge allows more people to qualify for Medicaid using this method.

Changes in the average charge or maximum figures are as follows:

- Nursing facility care: an increase to \$4,189 per month (previously \$3,923). This figure is based on data from freestanding facilities only, since the cost of special care is considered separately.
- ICF/MR care: an increase to \$20,960 per month (previously \$17,954).
- Mental health institute care: an increase to \$17,758 per month (previously \$16,363).
- Care in a psychiatric medical institution for children: an increase to \$5,044 per month (previously \$4,975).

These amendments do not provide for waivers in specified situations since the basis for the figures is set by statute.

Any interested person may make written comments on the proposed amendments on or before April 1, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4 and Iowa Code chapter 633C.

The following amendments are proposed.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in 75.23(2), divided by the statewide average private-pay rate for

nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2008~~ 2009, through June 30, ~~2009~~ 2010, this average statewide cost shall be ~~\$4,342.03~~ \$4,598.61 per month or ~~\$142.83~~ \$151.27 per day.

ITEM 2. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual.

For disposition of trust amounts pursuant to Iowa Code sections ~~633.707~~ 633C.1 to ~~633.711~~ 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2008~~ 2009, to June 30, ~~2009~~ 2010, shall be as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$3,923~~ \$4,189 per month.

(2) and (3) Rescinded IAB 7/7/04, effective 7/1/04.

(4) The maximum statewide Medicaid rate for a resident of an intermediate care facility for the mentally retarded is ~~\$17,954~~ \$20,960 per month.

(5) The average statewide charge to a resident of a mental health institute is ~~\$16,363~~ \$17,758 per month.

(6) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$4,975~~ \$5,044 per month.

(7) No change.